# IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

AMERICAN HOME ASSURANCE	)		
COMPANY,	)		
	)		
Plaintiff,	)		
	)		
V.	)	Case No.:	06-CV-03237-WAK
	)		
THE FEDERAL INSURANCE	)		
COMPANY,	)		
<b>D</b> 0 1	)		
Defendant.	)		
	)		

# <u>DEFENDANT FEDERAL INSURANCE COMPANY'S</u> <u>MOTION TO EXCLUDE PLAINTIFF'S EXPERT'S OPINIONS</u>

COMES NOW Defendant Federal Insurance Company, pursuant to Fed. R. Evid. 702, and moves this Court for an Order excluding the opinions of plaintiff's expert Jeffrey E. Thomas, as set forth in his Rule 26 Affidavit. In support of this Motion, Defendant states the following:

- 1. Defendant seeks to exclude Jeffrey Thomas' opinions as set forth in his Rule 26 Affidavit, attached as Exhibit A, on the grounds that his opinions consist entirely of legal conclusions. Thus, plaintiff's expert is attempting to usurp the Court's function of interpreting the law. Further, Jeffrey Thomas' legal conclusions are not admissible under Rule 702 in that they will not assist the trier of fact in understanding the evidence or determining a fact issue.
- 2. Defendant further seeks to exclude Jeffrey Thomas' opinions based on the fact that he is not qualified as an expert under Fed. R. Evid. 702 to render an opinion.
- 3. Defendant incorporates by reference its Memorandum of Law in Support, filed contemporaneously.

WHEREFORE, Defendant Federal Insurance Company seeks the Order of this Court excluding plaintiff's expert's opinions and for such further relief as the Court deems just and appropriate.

### Respectfully submitted,

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ATTORNEYS FOR DEFENDANT FEDERAL INSURANCE COMPANY

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the above and foregoing was filed electronically, with notice sent electronically, this 29<sup>th</sup> day of March, 2007, to:

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